HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.606 of 2007

Between:

Girijan Coop. Corporation Limited,
Visakhapatnam, represented by its
Vice Chairman and Managing Director
and another

… Appellants

And

M. Ramaswamy

… Respondent

::JUDGMENT::

Counsel for the appellants : Shri N. Sreedhar Reddy

Counsel for the respondent : Shri M. Sudheer Kumar

August 6, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 13-3-2007 passed by the learned Single Judge in Writ Petition No. 3901 of 2006, whereby he quashed order dated 4-2-2006 passed by appellant No.2 for recovery of Rs.1,20,920/- from the respondent in lieu of the alleged loss caused to appellant No.1.

The respondent worked as Senior Manager in Girijan Cooperative Corporation Limited, Visakhapatnam (appellant No.1) from 2001 to 2005. During that period 60.46 quintals of spurious honey is said to have been purchased by the staff of the Corporation. As a consequence, the Corporation suffered loss to the tune of Rs.6,04,600/-. In the enquiry got conducted by the Corporation, the

respondent's liability was fixed to the extent of 20% of the total loss and action for recovery of Rs.1,20,920/- was initiated against him.

The respondent challenged the action of the Corporation in Writ Petition No.3901 of 2006 by asserting that he had retired from service on 31.10.2006 and after retirement, no recovery can be made from him.

The learned Single Judge relied on order dated 31.8.2005 passed by another learned Single Judge in Writ Petition 4081 of 2003 and judgment of the Division Bench in Writ Appeal No.2329 of 2005 and granted relief to the respondent.

We have heard learned counsel for the parties and perused the record.

Learned counsel agree that Writ Appeal No.2236 of 2003 and batch, including Writ Appeal No. 2329 of 2005 filed by the appellants against similar orders of the learned Single Judge was dismissed by the Division Bench and that petitions for special leave to appeal filed against the judgment of the Division Bench are pending before the Supreme Court, but the operation of the order of the learned Single Judge and the judgment of the Division Bench have not been stayed.

Shri N. Sreedhar Reddy, learned counsel for the appellants pointed out that the contempt proceedings initiated by the writ petitioner have been stayed by the Supreme Court in Petition for Special Leave to Appeal (Civil) No. 15772 of 2006. He, however, conceded that the judgment of the Division Bench has not been stayed in its entirety.

In view of the above, we deem it proper to dispose of this appeal in terms of the judgment of Writ Appeal No. 2236 of 2003 and batch with liberty to the appellants to seek its revival, if stay is granted by the Hon'ble Supreme Court on the implementation of the judgment of the Division Bench. Ordered accordingly

If the appeals filed against the judgment of the Division Bench are finally allowed by the Supreme Court, then too the appellants shall be entitled to file an application for passing appropriate order in this

appeal.

As a sequel to disposal of the appeal, WAMP No. 1222 of 2007 filed by the appellants for interim relief is also disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 6, 2007
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